



AGENDA DATE: 5/10/00

AGENDA ITEM: IV-D

STATE OF NEW JERSEY

Board of Public Utilities

Two Gateway Center

Newark, NJ 07102

CABLE TELEVISION

IN THE MATTER OF THE PETITION OF)	<u>RENEWAL</u>
COMCAST CABLEVISION OF MONMOUTH)	<u>CERTIFICATE OF APPROVAL</u>
COUNTY, INC. FOR A RENEWAL)	
CERTIFICATE OF APPROVAL TO)	
CONTINUE TO CONSTRUCT, OPERATE)	
AND MAINTAIN A CABLE TELEVISION)	
SYSTEM IN AND FOR THE TOWNSHIP OF)	
MIDDLETOWN, COUNTY OF MONMOUTH,)	
STATE OF NEW JERSEY)	DOCKET NO. CE00020093

Stryker, Tams and Dill, Newark, New Jersey, by Janice Manganello, Esq., for the Petitioner.

Township Clerk, Township of Middletown, New Jersey, by Rosa Garcia, for the Township.

BY THE BOARD:

On August 3, 1979, the Board granted Monmouth Cablevision, Inc. ("Monmouth") a Certificate of Approval in Docket No. 797C-6468, for the construction, operation and maintenance of a cable television system in the Township of Middletown ("Township"). On July 1, 1981, in Docket No. 816C-6793, the Board approved the transfer of the Certificate from Monmouth to Futurevision Cable Enterprises, Inc. ("Futurevision"). On July 1, 1988, in Docket No. CM8605542, the Board approved an internal corporation reorganization of Futurevision, which allowed the company to assume the name Storer Cable Communications of Monmouth County, Inc. d/b/a Storer Cable Communications ("Storer").

On September 12, 1990, the Board granted Storer a Renewal Certificate of Approval for the Township in Docket No. CE89080734. On November 30, 1992, in Docket No. CM92080843, the Board approved the petition of Comcast Cablevision (a 50% shareholder of the Certificate) and Storer to transfer all assets to Comcast Cablevision, Inc. On June 27, 1994, Storer notified the Board's Office of Cable Television that it would now be known as Comcast Cablevision of Monmouth County, Inc. ("Petitioner"). Although the Petitioner's Certificate expired on August 3, 1999, it is authorized to continue to provide cable service to the Township pursuant to N.J.S.A. 48:5A-25.

The Petitioner filed an application for the renewal of its municipal consent with the Township on November 2, 1998, pursuant to N.J.S.A. 48:5A-23 and N.J.A.C. 14:18-13. The Township, after public hearing, adopted a municipal ordinance granting renewal consent to the Petitioner on December 20, 1999. On December 30, 1999, the Petitioner formally accepted the terms and conditions of the ordinance, in accordance with N.J.S.A. 48:5A-24.

On February 2, 2000, pursuant to N.J.S.A. 48:5A-16, the Petitioner filed with the Board for a renewal of its Certificate of Approval for the Township. The Board has reviewed the application for municipal consent, the petition for a Renewal Certificate of Approval and the municipal consent ordinance. Based upon this review and the recommendation of the Office of Cable Television, the Board HEREBY FINDS the following:

1. The Petitioner possesses the requisite legal, character, financial and technical qualifications for the awarding of a Renewal Certificate of Approval. Further, the Township reviewed these qualifications in conjunction with the municipal consent process. See N.J.S.A. 48:5A-22 to 29 and N.J.A.C. 14:18-13.
2. The design and technical specifications of the system will ensure that the Petitioner provides safe, adequate and proper service.
3. The Petitioner has represented that all previously required construction within the franchise territory is complete.
4. The franchise period as stated in the ordinance is ten years with an automatic renewal provision for a term of five years thereafter pursuant to N.J.S.A. 48:5A-19 and -25. The Office of Cable Television finds these periods to be of reasonable duration.
5. The Township may review the performance of the Petitioner with regard to the ordinance. Said review shall commence on the fifth anniversary of the issuance of this Certificate, and shall be completed no later than six months from that date. The Township shall provide written notification to the Petitioner and the Board of the commencement and completion of said review. If the Township determines that the Petitioner has failed to substantially comply with the material terms and conditions of the ordinance, it must provide written notice and opportunity to cure to the Petitioner within 90 days. If, after such reasonable notice and opportunity to cure, the Petitioner still has not cured any such findings of non-compliance, the Township may petition the Board for appropriate administrative action.
6. The Petitioner's rates shall be regulated and tariffs shall be filed for all services, in accordance with the rules and regulations of the Federal Communications Commission, the Board and the Office of Cable Television. The Petitioner shall maintain informational tariffs for unregulated service rates and promptly file any revisions thereto.
7. Pursuant to N.J.S.A. 48:5A-26(b), the ordinance specifies a complaint officer. In this case it is the Office of Cable Television. All complaints shall be received and processed in accordance with N.J.A.C. 14:17-6.5.

8. The Petitioner shall establish and maintain a local business office within a reasonable distance of the Township for the purpose of receiving, investigating and resolving complaints. Currently, the local office is located at 403 South Street in Eatontown.
9. The franchise fee to be paid to the Township is specified to be 2% of the Petitioner's gross revenues from all recurring charges in the nature of subscription fees paid by subscribers for its cable television reception service in the Township. Additional regulatory fees shall be paid to the State in an amount not to exceed 2% of Petitioner's gross operating revenues derived from intrastate operations. The Board finds these fees to be reasonable.
10. The Petitioner has asserted that it has completed a rebuild and/or upgrade to 750 MHz of the plant in the Township utilizing a "fiber to the node" design.
11. The Petitioner shall provide service along any public right-of-way to any person's residence or business located in all areas of the franchise territory at tariffed rates for standard and non-standard installation. In all other circumstances, the Petitioner shall utilize the line extension policy ("LEP") attached to the Certificate. The minimum homes per mile figure is 35.
12. The Petitioner has agreed to provide public, educational and governmental ("PEG") access channels and facilities in accordance with its renewal application and the ordinance. Specifically, within 12 months of issuance of this Certificate, the Petitioner shall provide the Township with a dedicated municipal governmental and educational access channel for use by the Township or its designees for the cablecasting of non-commercial governmental and/or educational programming.
13. Within 12 months of the issuance of this Certificate, the Petitioner shall, at its sole expense, construct and maintain two dedicated fiber optic return lines originating at (a) the municipal building and (b) one of the Township's High Schools. The Petitioner shall also provide connectivity between the Township's two high schools for exclusive use of transporting educational access programming between the two for the governmental/educational access channel. The Petitioner shall, at its sole expense, purchase and install equipment and wiring necessary for transmission of access programming, excluding production equipment. Installation shall be at locations within those facilities to be determined by the Petitioner, providing that installation is technically feasible and economically practical.
14. Within six months of the issuance of this Certificate, the Petitioner shall pay to the Township a one-time capital contribution in the amount of \$200,000.00 for purchase of studio equipment for locally originated programming or for such related purposes as determined by the Township.
15. The Petitioner shall designate an employee responsible for responding to comments or complaints with respect to the access channels' signal. The Petitioner shall also provide technical assistance, as needed at the Township's origination sites.

16. In addition to the above, the Petitioner maintains a fully equipped operational local production studio in Brick Township for creation of local and access programming.
17. The Petitioner shall provide the installation service and connection to the local area network ("LAN") of each qualified school currently existing or hereinafter built in the Township, free of charge, which service shall consist of basic cable television programming.
18. The Petitioner shall provide installation and basic service to one outlet, free of charge, to each of the Township libraries and every municipally owned building. These buildings shall include but not be limited to municipal firehouses, first aid buildings and Town Hall, but which shall not include municipally operated senior housing structures.
19. The Petitioner shall provide one free basic Internet access service, via high-speed modem, to one non-networked personal computer to each public and private school and each of the libraries in the Township. The computer shall be for student or library patron use and shall not be used only for administrative purposes.
20. Upon written request of the Township, the Petitioner and the Township's cable television advisory committee shall meet, not more than semi-annually to review all matters pertaining to the provision of cable service to the residents of the Township and other related issues.

Based upon these findings, the Board HEREBY CONCLUDES that pursuant to N.J.S.A. 48:5A-17(a) and 28(c), the Petitioner has sufficient financial and technical capacity and meets the legal, character and other qualifications necessary to construct, maintain and operate the necessary installations, lines and equipment and is capable of providing the proposed service in a safe, adequate and proper manner.

Therefore, the Petitioner is HEREBY ISSUED this Renewal Certificate of Approval as evidence of Petitioner's authority to construct and operate a cable television system within the entirety of the Township.

This Renewal Certificate is subject to all applicable State and federal laws, the rules and regulations of the Office of Cable Television, and any such lawful terms, conditions, and limitations as currently exist or may hereafter be attached to the exercise of the privileges granted herein.

The Petitioner shall adhere to the operating standards set forth by the Federal Communications Commission's rules and regulations, 47 C.F.R. Section 76.1 et seq. Any modifications to the provisions thereof, shall be incorporated into this Certificate. Additionally and more specifically, the Petitioner shall adhere to the technical standards of 47 C.F.R. Part 76, Subpart K.

Failure to comply with all applicable laws, rules, regulations and orders of the Board or Office of Cable Television and/or the terms, conditions, and limitations set forth herein may constitute sufficient grounds for the suspension or revocation of this Certificate.

This Renewal Certificate is issued on the representation that the statements contained in the Petitioner's applications are true, and the undertakings therein contained shall be adhered to and enforceable unless specific waiver is granted by the Office of Cable Television pursuant to the authority contained in N.J.S.A. 48:5A-1 et seq.

This Certificate shall expire on August 3, 2009.

DATED: May 15, 2000

BOARD OF PUBLIC UTILITIES

BY:

(signed)

HERBERT H. TATE
PRESIDENT

(signed)

CARMEN J. ARMENTI
COMMISSIONER

(signed)

FREDERICK F. BUTLER
COMMISSIONER

ATTEST:

(signed)

EDWARD D. BESLOW
ACTING SECRETARY